

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to the Every Student Succeeds Act and to Iowa assessments

The State Board of Education hereby amends Chapter 12, “General Accreditation Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 256.7(21) and 20 U.S.C. 7926.

Purpose and Summary

Pursuant to the Every Student Succeeds Act (ESSA), Section 8038, codified at 20 U.S.C. 7926, the State Board of Education amends rule 281—12.3(256) by adding new subrule 12.3(14) to require schools and school districts to adopt policies prohibiting the aiding and abetting of sexual abuse. In addition, the State Board amends subrule 12.8(1) by replacing paragraph “h” with a new paragraph “h” that names the summative assessment developed by the Iowa testing program within the University of Iowa college of education and administered by the Iowa testing program’s designee as the statewide summative assessment of student progress administered by school districts for purposes of the core academic indicators.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 6, 2018, as **ARC 3822C**. A public hearing was held on June 26, 2018, at 9 a.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on August 2, 2018.

Fiscal Impact

The fiscal impact is unknown until a vendor is chosen and terms are set by Iowa Testing Programs.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on October 3, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** subrule 12.3(14):

12.3(14) Policy prohibiting the aiding and abetting of sexual abuse.

a. General. The department and each public school district and area education agency shall adopt policies that prohibit any individual who is a school employee, contractor, or agent, or any state educational agency or local educational agency, from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.

b. Exception. The requirements of paragraph 12.3(14) “a” shall not apply if all of the following conditions are met.

(1) The information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the regulations implementing such title under Part 106 of Title 34, Code of Federal Regulations, or any succeeding regulations.

(2) The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct have investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law; or the school employee, contractor, or agent has been charged with, and acquitted or otherwise exonerated of, the alleged misconduct; or the case or investigation remains open and there have been no charges filed against, or indictment of, the school employee, contractor, or agent within four years of the date on which the information was reported to a law enforcement agency.

ITEM 2. Rescind paragraph **12.8(1)“h”** and adopt the following **new** paragraph in lieu thereof:

h. Statewide summative assessment.

(1) For purposes of this chapter, the statewide summative assessment of student progress administered by school districts for purposes of the core academic indicators shall be the summative assessment developed by the Iowa testing program within the University of Iowa college of education and administered by the Iowa testing program’s designee. The department may require the Iowa testing program to enter into agreements with such designee to ensure the department is able to comply with Iowa Code chapter 256; this chapter; the requirements of the federal Every Student Succeeds Act, Pub. L. No. 114-95; the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; and any other applicable state or federal law.

(2) For the school year beginning July 1, 2018, and each succeeding school year, the statewide summative assessment referred in this paragraph shall meet all of the following requirements:

1. All students enrolled in school districts in grades 3 through 11 shall be administered an assessment in mathematics and English language arts, including reading and writing, during the last quarter of the school year, and all students enrolled in school districts in grades 5, 8, and 10 shall be administered an assessment in science during the last quarter of the school year.

2. The assessment, at a minimum, shall assess the core academic indicators identified in Iowa Code section 256.7(21) “b”; be aligned with the Iowa common core standards in both content and rigor; accurately describe student achievement and growth for purposes of the school, the school district, and state accountability systems; provide valid, reliable, and fair measures of student progress toward college

or career readiness; and meet the summative assessment requirements of the federal Every Student Succeeds Act, Pub. L. No. 114-95.

3. The assessment shall be available for administration in both paper-and-pencil and computer-based formats and include assessments in mathematics, science, and English language arts, including reading and writing.

4. The assessment shall be peer-reviewed by an independent third-party evaluator to determine that the assessment is aligned with the Iowa core academic standards, provides a measurement of student growth and student proficiency, and meets the summative assessment requirements of the federal Every Student Succeeds Act, Pub. L. No. 114-95. The assessment developed by the Iowa testing service within the University of Iowa college of education shall make any necessary adjustments as determined by the peer review to meet the requirements of this paragraph.

5. The costs of complying with the requirement of this paragraph shall be borne by the Iowa testing program within the University of Iowa college of education.

[Filed 8/2/18, effective 10/3/18]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/29/18.